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EXAMINER
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PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/822,699	<b>Applicant(s)</b> KUPERSHMIDT, OLEG	
	<b>Examiner</b> Michael Pyzocha	<b>Art Unit</b> 2137	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected:
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/30/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. Claims 1-40 are pending.
2. Amendment filed 12/20/2004 has been received and considered.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(o) because Figure 1 fails to label all of the boxes with suitable descriptive legends. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to because element 25 of Figure 1 is missing reference numbers. Corrected drawing

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sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Merrien et al (WO 98/57474).

As per claim 1, Merrien et al discloses a method for configuring a network access device, said method comprising the steps of storing, in a data storage card, configuration settings compatible with the network access device; loading said configuration settings into the network access device from said data storage card; and configuring the network access device using said configuration settings such that network communication is initially established between the network access device and a network operator (see the Abstract and page 7 paragraph 4).

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As per claim 5, Merrien et al discloses the step of storing said configuration settings comprises the step of inserting said data storage card into a data storage card writer (see the Abstract where it is inherent that for the smart card to have data in memory it had to have been inserted into a card writer).

As per claim 6, Merrien et al discloses the step of loading said configuration settings comprises the step of inserting said data storage card into a data storage card reader in the network access device (see the Abstract and figure 1 where the phone is the network access device).

As per claim 7, Merrien et al discloses the step of loading said configuration settings comprises the step of inserting said data storage card into a data storage card reader in a computer connected to the network access device (see the Abstract and the figure where the phone is the computer with the network access device residing in it).

As per claims 8 and 28, Merrien et al discloses the data storage card comprises a memory and an operating system (see the Abstract where the smart card inherently has memory and an operating system as described in applicants specification).

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As per claim 11, Merrien et al discloses the step of providing the data storage card to a subscriber of the operator (see the Abstract and figure where the ISP is the same as the network operator and it is inherent the card was provided to the user).

As per claim 13, Merrien et al discloses the step of setting a network protocol address for the network address device (see the Abstract).

As per claim 29, Merrien et al discloses software that controls the loading of the configuration settings from the data storage card into the network access device (see the Abstract and page 9 paragraph 4).

As per claim 30, Merrien et al discloses the software resides in a computer in communication with the network access device (see abstract and figure).

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 2-3, 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claims 1 and 27 above, and further in view of Liu et al (U.S. 6,081,517).

As per claims 2 and 33, Merrien et al fails to disclose a step of configuring an access multiplexer in communication with the network access device.

However, Liu et al teaches configuration of an access multiplexer (see the Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Liu et al's configuration of a DSLAM along with Merrien et al's configuration system.

Motivation would have been to allow a client to connect to a destination content promise system (or ISP) through DSL (see Liu et al's Abstract).

As per claims 3 and 33, the modified Merrien et al and Liu et al system discloses a digital subscriber line access multiplexer (see Liu et al's Abstract).

9. Claims 9 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claims 8 and 28 above, and further in view of Riggins (U.S. 6,233,341).

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As per claims 9 and 32, Merrien et al fails to disclose installing a private key in the network access device.

However, Riggins teaches installing a private key in a client (see column 5 lines 41-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Riggins' method for installing a private key into Merrien et al's system.

Motivation to do so would be to have the ability to authenticate the user (see Riggins column 5 lines 41-65).

10. Claims 10, 15-19, 36 are rejected under 35 U.S.C.

103(a) as being unpatentable over Merrien et al.

As per claim 10, Merrien et al fails to disclose the step of storing configuration settings is performed by a member of the group of a network operator and an application service provider.

Official notice is taken that it would have been obvious to one of ordinary skill in the art for the network operator (administrator) or the application service provider to store the configuration settings.

Motivation would have been that these entities would be the only ones to have access to such settings.



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As per claim 15, Merrien et al discloses a system for configuring a network access device suitable for providing a subscriber access to a network operator, said system comprising a data storage card writer in communication with a network operator, such that said network operator can store configuration settings for the subscriber into a data storage card via said data storage card writer; and a data storage card reader in communication with the network access device, such that said data storage card reader can download said configuration settings into the network access device from said data storage card via said data storage card reader said configuration settings configuring the network access device to initially establish network communication between the network access device and the network operator (see the Abstract and figure 1 and page 7 paragraph 4).

As per claim 16, Merrien et al discloses the data storage card comprises a memory and an operating system (see the Abstract where the smart card inherently has memory and an operating system as described in applicants specification).

As per claim 17, Merrien et al discloses software that downloads the configuration settings from the data storage

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card into the network access device (see the Abstract where the "explorer" is the software).

As per claim 18, Merrien et al discloses the software residing in the network access device (see the abstract and figure).

As per claim 19, Merrien et al discloses the software resides in a computer in communication with the network access device (see abstract and figure).

As per claim 36, a data storage card writer in communication with a network application service provider, such that said network application service provider can store configuration settings for the subscriber into a data storage card via said data storage card writer (see abstract and figure).

11. Claims 12 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claims 1 and 27 above, and further in view of Decker et al (U.S. 4,757,495).

As per claims 12 and 35, Merrien et al fails to disclose the configuration settings comprising voice and data configuration settings.

However, Decker et al teaches voice and data settings (see column 14 lines 51-65).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Decker et al's voice and data settings in the configuration settings of Merrien et al.

Motivation to do so would have been to allow for great transmission speeds (see Decker et al column 14 lines 51-65).

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 1 above, and further in view of Fraser (U.S. 5,926,464).

As per claim 14, Merrien et al fails to disclose the step of setting up a permanent virtual circuit for a virtual path identifier/virtual channel pair.

However, Fraser teaches setting up a permanent virtual circuit (see column 8 lines 43-63).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Fraser's permanent virtual circuit with Merrien et al's network access device.

Motivation to do so would have been to allow for setting priority for certain packets.

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13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 16 above, and further in view of Riggins (U.S. 6,233,341).

As per claim 21, Merrien et al fails to disclose installing a private key in the network access device.

However, Riggins teaches installing a private key in a client (see column 5 lines 41-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Riggins' method for installing a private key into Merrien et al's system.

Motivation to do so would be to have the ability to authenticate the user (see Riggins column 5 lines 41-65).

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 15 above, and further in view of Decker et al (U.S. 4,757,495).

As per claim 22, Merrien et al fails to disclose the configuration settings comprising voice and data configuration settings.

However, Decker et al teaches voice and data settings (see column 14 lines 51-65).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Decker et al's voice and data settings in the configuration settings of Merrien et al.

Motivation to do so would have been to allow for great transmission speeds (see Decker et al column 14 lines 51-65).

15. Claims 23, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 15 above, and further in view of Liu et al (U.S. 6,081,517).

As per claim 23, Merrien et al fails to disclose a step of configuring an access multiplexer in communication with the network access device.

However, Liu et al teaches configuration of an access multiplexer (see the Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Liu et al's configuration of a DSLAM along with Merrien et al's configuration system.

Motivation would have been to allow a client to connect to a destination content promise system (or ISP) through DSL (see Liu et al's Abstract).

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As per claim 25, the modified Merrien et al and Liu et al system discloses the configuration settings comprise configuration information compatible with said access multiplexer.

As per claim 26, the modified Merrien et al and Liu et al system discloses a digital subscriber line access multiplexer (see Liu et al's Abstract).

16. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 17 above, and further in view of Langfahl, Jr. (U.S. 6,031,528).

As per claim 20, Merrien et al fails to disclose the software comprising a diagnostic routine.

However, Langfahl, Jr. teaches a diagnostic routine (see the abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for Merrien et al's software to include a diagnostic routine as taught in Langfahl, Jr.

Motivation to do so would have been to determine the connectivity of the network device to other network entities (see Langfahl, Jr. abstract).

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17. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merrien et al as applied to claim 29 above, and further in view of Langfahl, Jr. (U.S. 6,031,528).

As per claim 31, Merrien et al fails to disclose the software comprising a diagnostic routine.

However, Langfahl, Jr. teaches a diagnostic routine (see the abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for Merrien et al's software to include a diagnostic routine as taught in Langfahl, Jr.

Motivation to do so would have been to determine the connectivity of the network device to other network entities (see Langfahl, Jr. abstract).

18. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Merrien et al and Liu et al system as applied to claim 1 above, and further in view of Kaycee et al (U.S. 5,889,470).

As per claim 4, the modified Merrien et al and Liu et al system fails to disclose a step of configuring a subscriber management system in communication with the access multiplexer.

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However, Kaycee et al teaches such a management system (see the abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the management system on Kaycee et al in the modified system of Merrien et al and Liu et al.

Motivation to do so would have been to allow remote access of the DSL access device (see Kaycee's abstract).

19. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Merrien et al and Liu et al system as applied to claim 23 above, and further in view of Kaycee et al (U.S. 5,889,470).

As per claim 24, the modified Merrien et al and Liu et al system fails to disclose a step of configuring a subscriber management system in communication with the access multiplexer that maintains subscriber profiles.

However, Kaycee et al teaches such a management system (see the abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the management system on Kaycee et al in the modified system of Merrien et al and Liu et al.



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Motivation to do so would have been to allow remote access of the DSL access device (see Kaycee's abstract).

20. Claims 37 are 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Merrien et al and Liu et al system as applied to claim 23 above, and further in view of Langfahl, Jr. and Riggins.

As per claim 37, the modified Merrien et al and Liu et al discloses the data storage writer in communication with a network operator (see page 8 paragraph 2).

The modified Merrien et al and Liu et al fails to disclose diagnostic routines and encryption data being loaded into the data storage tank.

However, Langfahl, Jr. discloses diagnostic routines (see the abstract), and Riggins discloses encryption data (see column 5 lines 41-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for Merrien et al's software to include a diagnostic routine as taught in Langfahl, Jr. and the encryption data taught in Riggins.

Motivation to do so would have been to determine the connectivity of the network device to other network

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entities (see Langfahl, Jr. abstract), and to have the ability to authenticate the user (see Riggins column 5 lines 41-65).

As per claim 40, the modified Merrien et al, Liu et al, Langfahl, Jr. and Riggins system discloses the encryption data comprises a secret key (see Riggins column 5 lines 41-65).

21. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Merrien et al, Liu et al, Langfahl, Jr. and Riggins system as applied to claim 37 above, and further in view of Kaycee.

As per claim 38, the modified Merrien et al, Liu et al, Langfahl, Jr. and Riggins system fails to disclose a step of configuring a subscriber management system in communication with the access multiplexer that maintains subscriber profiles.

However, Kaycee et al teaches such a management system (see the abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the management system on Kaycee et al in the modified system of Merrien et al and Liu et al.

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Motivation to do so would have been to allow remote access of the DSL access device (see Kaycee's abstract).

22. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Merrien et al, Liu et al, Langfahl, Jr. and Riggins system as applied to claim 37 above, and further in view of Decker et al (U.S. 4,757,495).

As per claim 39, Merrien et al fails to disclose the configuration settings comprising voice and data configuration settings.

However, Decker et al teaches voice and data settings (see column 14 lines 51-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Decker et al's voice and data settings in the configuration settings of Merrien et al.

Motivation to do so would have been to allow for great transmission speeds (see Decker et al column 14 lines 51-65).

#### ***Response to Arguments***

23. Applicant argues: claims 1, 15 and 27 fail to teach or suggest using configuration settings such that network

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communications is initially established between the network access device and network operator; claims 6 and 7 are not disclosed in Merrien because Merrien teaches only a single embodiment; Merrien fails to disclose software that controls the loading of configuration settings in the network device and computer in communication with the network access device; the Office Action fails to offer evidence to combine Merrien and Liu; Riggins is not analogous prior art and lacks motivation; Decker is not analogous prior art and lacks motivation; Langfahl and Kaycee fail to cure the deficiencies of Merrien; and Merrien fails to disclose a card writer in communication with a network operator.

As per claims 1, 15 and 27 Merrien teaches using configuration settings such that network communications is initially established between the network access device and network operator as seen on page 7 paragraph 4.

As per claims 6 and 7 Merrien teaches more than a single embodiment and therefore this argument is not deemed persuasive. See, for example, page 7 paragraph 2 describing the use of the invention in cordless phones and in fixed terminals.

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Merrien discloses software that controls the loading of configuration settings in the network device and computer in communication with the network access device as seen on page 9 paragraph 4 where the operating system is the software.

The motivation to combine Merrien and Liu is that Merrien teaches connecting to the Internet and it is known in the art that DSL is a method of connecting to the Internet that provides high-speed connections as disclosed in Liu column 3 lines 38-45.

Riggins is analogous prior art because like Applicant's invention Riggins' method occurs over a network and Applicant's view of the field of endeavor for Applicant's invention is too narrow.

There is motivation to combine Riggins with Merrien because Merrien discloses the need for authentication, cryptography and security on page 7 paragraph 5.

Decker is analogous prior art because it related to the transmission of analog speech and modulated data both of which are commonly transmitted use a DSL connection. The motivation to combine, to increase the speed of transmission, would have been obvious to one of ordinary skill in the art because it is known in the art of network

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communication to obtain the fastest transmission speed possible.

Langfahl and Kaycee fail to cure the deficiencies of Merrien, however, the deficiencies of Merrien claimed by the Applicant are actually disclosed in Merrien as discussed above.

Merrien discloses a card writer in communication with a network operator as seen on page 8 paragraph 2. Where the phone's explorer is the writer and is connected to the network operator via the Internet.

#### ***Conclusion***

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

A handwritten signature in black ink, appearing to read "Andrew Caldwell". The signature is fluid and cursive, with the first name "Andrew" and last name "Caldwell" clearly distinguishable.

**ANDREW CALDWELL**  
**SUPERVISORY PATENT EXAMINER**